



Debt Recovery Policy

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1. Introduction

The Section 151 Officer has responsibility, under section 151 of the Local Government Act 1972, for the administration of the financial affairs of the Council. One such area of administration relates to debt owed to the Council which is covered by this policy.

The Council has a duty to recover outstanding debts and in doing so ensure that its processes are fair and consistent to everyone. This policy covers the collection of customer accounts due to Newcastle-under-Lyme Borough Council.

The Debt Recovery Policy will ensure that:

- We minimise debt and maximise rates of collection.
- We are consistent and co-ordinated in our approach.
- We assist customers based on their ability to pay and individual financial circumstances.
- We provide clear guidance for all Council Officers on the recording, reporting, recovery, and monitoring of debt.

2. Scope of this Policy

This Policy covers the recovery of Debt of Newcastle-under-Lyme Borough Council, including debt relating to the provision of Council Tax, Business Rates, Commercial Rents and Sundry Debt.

3. Framework

The legal framework for the enforcement of Council Tax is provided by the Council Tax (Administration and Enforcement) Regulations, for Business Rates it is provided by the Non-Domestic Rating (Collection and Enforcement) Regulations.

The prescribed recovery and enforcement process for both Council Tax and Business Rates is as follows:

- Demand notice
- Instalments
- Reminder/final notices
- Summons
- Liability Order hearing
 - Attachment of earnings
 - Attachment of members allowances
 - Deduction from benefits
 - Enforcement agent
 - Committal to prison
 - Charging order
 - Bankruptcy

The recovery and enforcement process for Sundry Debts is as follows:

- Invoice Issued
- First reminder
- Second/final reminder
- Letter before action
- Claim registered with Money Claims Online

- Judgement (County Court Hearing Centre)
 - Warrant of control (enforcement agent)
 - Charging order
 - Bankruptcy

4. Purpose of the Debt Recovery Policy

- To ensure the efficient collection of income due to the Council by implementation of a transparent charging policy. Charges are set annually in a Fees and Charges report approved by Cabinet each January, the Council Tax setting report approved by Full Council each February and by Central Government in relation to Business Rates.
- This policy will help to ensure accurate and timely billing, reduce the level of debt arising and ensure effective and timely recovery processes, utilising appropriate recovery methods by debt type.
- To ensure that debts are managed in accordance with legislative provisions and best practice.
- To ensure performance in relation to debt recovery is monitored and reported through the relevant management structures of the Council.

5. The Council's Responsibility

- To ensure a professional, consistent and timely approach to all debt recovery action across all of the Council's functions.
- To ensure that debts are managed in accordance with legislative provisions and best practice.
- To set reasonable fees and charges in line with Council priorities.
- To maximise income collection while reducing the cost of collection.
- To set out charges in the clearest manner possible.
- To ensure a range of accessible payment options are available alongside advice and assistance at the earliest possible stage.

6. Responsibility of Debtors

- To pay on time.
- To contact the Council or take appropriate debt advice if they are unable to pay an amount that is due and/or are unable to pay on time.
- To contact the Council as soon as possible if they do not agree with the bill and explain why they do not agree.
- To contact the Council as soon as possible about any change in circumstances such as a change of address.

7. Receipt of Payments/Income in Advance

Where payment can be taken before goods or services are provided, these cases should be identified and payment taken in advance. This ensures that no debt is raised in these cases having due regard to the value of the transaction compared with the cost of collection.

A further advantage of invoice in advance is that this approach protects Newcastle-under-Lyme Borough Council from the risk of late payment or bad debt, improves the Council's cash flow and avoids the cost of administering debts.

8. Raising Sales Invoices/Bills

All invoices must be raised through the Council's Financial system in relation to Sundry Debtors and all bills in relation to Council Tax and Business Rates must be raised through the Council's Revenues system.

All invoices/bills should be raised in a timely manner and should be clear, accurate and in plain English.

Annual billing for Council Tax and Business Rates is undertaken ahead (March) of the forthcoming financial year.

Full details of the charge being made must be clearly stated on the invoice/bill, including the date the service or goods were provided. Where a credit note is necessary full details of the reason for credit must be clearly stated on the credit note.

Prompt invoicing is vital in ensuring effective debt collection by ensuring prompt payment. Invoices must be raised with a maximum of 5 days of the goods or services being delivered.

By raising an invoice, the originating service area confirms, by default, that appropriate recovery action through the Debt Recovery Officers, including court action where necessary, is granted at the time the debt is raised.

If a Purchase Order number is required by the debtor this must be obtained prior to raising the invoice.

9. Payment Terms and Conditions

The Council's payment terms are strictly 20 calendar days in relation to sundry debtors.

Council Tax and Business Rates are usually paid by 10 monthly instalments from April to January, 12 instalments from April to March or in full. A reminder is issued 20 calendar days after the commencement of the financial year for any non-payment.

10. Late payment of Commercial Debt

The Council reserves the right to charge interest and claim compensation in accordance with the Late Payment of Commercial Debts (Interest) Act 1998 and under the Late Payment of Commercial Debts Regulations 2013.

For Commercial debt, interest will be charged on any debt at a rate of 8% above base rate.

11. Methods of Payment

The Council accepts a range of payment methods, the list of available Methods of Payment is included on the reverse of the invoice/bill.

Our preferred method of payment is Direct Debit (including Trade Waste) as this is efficient, timely and provides value for money for the Council. The use of cash is no longer accepted, cheques are discouraged and are being phased out in favour of alternative electronic methods of payment.

12. Paying via Instalments

The Debt Recovery Officers have sole responsibility to agree payment beyond the Council's repayment terms (as set out in Section 9) or instalments as repayment of Sundry Debt. Where customers evidence that payment of outstanding debt due to the Council cannot be paid in full this will be considered on merit on a case-by-case basis.

Instalment plans must be mutually agreed between the Council and the Debtor, and the instalment agreement must not exceed 12 months (unless specifically agreed via a court process) and the method of payment must be Direct Debit. Should the customer default within this period the full value of the debt becomes payable in full.

For individuals who are unable to pay within 12 months, consideration would be given to extending this period although interest charges will apply at the rate of 2% above the Bank of England's base rate.

In exceptional circumstances, where a member of staff or Council Member have an outstanding debt with the Council, arrangements can be made to clear the debt via a salary deduction. This will be considered on its merits and is the responsibility of the Debt Recovery Officer and Human Resources Team to agree and administer.

Council Tax payers and Business Rates payers who are experiencing personal and financial difficulties and struggling to pay their council tax and business rates will be encouraged to undertake an income and expenditure analysis with the council to ascertain the best method and rate of recovery.

Taxpayers and ratepayers will also be advised of other organisations that can help with debt advice.

An individual's financial and personal circumstances will be assessed before any arrangement is made.

We will make arrangements with the taxpayer, ratepayer or bona fide representative, including, but not limited to, husband/wife, partner, debt advisor, executor or solicitor. Arrangements will only be made with representatives, where there is written or express authority for the representative to act on behalf of the taxpayer or ratepayer whose name appears on the bill.

When making arrangements to pay the council will seek to clear debts within the financial year of the liability. Where this is not possible, we will seek to reach an agreement that allows, as a minimum, the payment of the continuing liability plus an affordable amount off any arrears. Arrangements will be assessed based upon the affordability and sustainability for payment and seek to ensure that the debt is paid off within a reasonable period

At the discretion of our Recovery Section, a solicitor's undertaking that council tax arrears will be paid from the proceeds of a sale will be accepted as an alternative to setting up a payment arrangement.

13. Reminder Letters

Newcastle-under-Lyme Borough Council operates a reminder letter policy for sundry debtors, which includes a first reminder 8 calendar days after the due date and a final demand for payment after a further 14 days.

The final reminder is issued where the debt is 22 days overdue. The customer has 14 days to make payment in full before a letter before action is sent to the customer advising them that the debt will be referred to Money Claims Online for Crown Court enforcement.

In relation to Council Tax and Business Rates reminders are timetabled monthly. We can amend this timetable, adding to or removing dates as required. This enables us to manage workloads, resources and collection requirements more effectively.

If a customer does not pay an instalment by the due date we will issue a reminder. The reminder will request payment of the overdue instalment within 7 days.

If the missed instalment is received within 7 days we will not take any further action; but if it remains unpaid we may cancel the instalments and issue a summons for the full year's tax.

If the instalment is received within 7 days, but another instalment is not paid then we will issue a second reminder. If the missed instalment is received within 7 days we will not take any further action; but if it remains unpaid we may cancel the instalments and issue a summons to court for the full year's tax.

If the account is brought up to date but falls behind a third time, we may send a final notice, at this point the full outstanding amount will become payable as the right to pay by instalments has been lost.

Failure to pay the final notice will result in a summons, which will incur costs.

The individual circumstances of the customer will be considered to see if there any special or mitigating factors to be taken in account.

14. Invoices in Query or Dispute

A sundry debt is in dispute where the Debtor believes that the charge is incorrect. Note, reluctance to pay a charge that has been raised in accordance with this policy is not considered a dispute and, in these cases, the standard debt recovery process will be followed.

Where a dispute has been acknowledged, the service area that raised the original sundry debt has 30 days to resolve the dispute. In exceptional circumstances, the Finance Manager will approve an extension of a further 30 days following an email request from the service area. Without this approval, the debt is due and beyond any agreed extension, no further extensions will be provided.

15. Role of Debt Recovery Officers

The Debt Recovery Officers are responsible for enforcing all outstanding, invoiced, overdue debt owed to Newcastle-under-Lyme Borough Council. The debt becomes overdue where it has not been paid within the Council's payment terms (as set out in Section 9) and is outstanding until it is either collected, cancelled (via an issued, formal credit note) or formally written off. No other approaches can be taken for Debt covered within this policy.

The Debt Recovery Officers will attempt to recover debt within a timely manner and will liaise with service areas and debtors to enable this recovery. The Debt Recovery Officers

maintain a log of all correspondence in relation to sundry debt on the Council's Financial system and in relation to Council Tax and Business Rates on the Council's Revenues system. These logs are essential if debt is referred for legal action or if a complaint is received from the Debtor.

16. Assistance Available to Customers

The Debt Recovery Officers can offer advice on entitlement to benefits, discounts and exemptions in relation to Council Tax and Business Rates. In relation to Sundry Debts a debtor may be signposted to local organisations who can offer advice on debt management.

17. Summons to Magistrates Court (Council Tax and Business Rates)

A summons will be sent to each person named on the bill and summons costs will be incurred.

If the customer pays the amount of the summons (i.e. the full amount outstanding for the year) plus costs prior to the court hearing, the hearing will not proceed and we will not obtain a liability order.

If the customer does not pay the summons amount plus costs prior to the hearing, the hearing will proceed and we will ask the magistrates court to grant a liability order plus additional costs.

At any time after the summons has been issued we may agree to a repayment arrangement. If the payment arrangement is accepted and payments are received as agreed, no further recovery action will be taken. If a payment arrangement is not accepted, we will write to the customer with the reasons why.

Failure to pay in full or contact the council to make an arrangement will result in further recovery action being taken.

At the hearing we must show the magistrates proof that we have set and attempted to collect the council tax in accordance with the law. We must also confirm that the customer named on the summons is liable and that all or part of the debt remains unpaid. If the magistrates accept our evidence they will grant the liability order.

To defend an application for a Liability Order, the customer must offer a valid defence against it. Valid defences are:

- We have not demanded council tax in accordance with the regulation
- The amount has been paid in full with costs
- The person named on the summons is not the liable person
- We have already commenced bankruptcy or winding up proceedings

It is not a valid defence if the customer:

- Is unable to pay
- Has recently applied for council tax support
- Has applied to the Valuation Office Agency against their banding
- Has appealed their liability to the Valuation Tribunal

Where customers are liable on a joint and several basis, recovery and enforcement procedure may be applied to one or more of the joint taxpayers.

The individual circumstances of the customer will be considered to see if there are any special factors to be considered when determining what enforcement action is taken.

A liability order is an order of the magistrate's court that gives certain powers to the council to collect the debt that it is owed. The order is for a fixed amount of money, plus additional costs.

The liability order gives us the power to recover the debt using any of the following methods set out below. The authority will decide which method is most appropriate to follow depending on the information available on the customer at the time.

- Payment arrangements
- Attachment of earnings/members allowances
- Attachment of DWP benefits
- Enforcement agent
- Committal proceedings
- Charging orders
- Bankruptcy
- Winding up procedures

18. Referral of Debt to Crown Court (Sundry Debtors)

As set out in Section 13, if after a letter before action payment has still not been made the invoice is marked for enforcement via Money Claims Online by the Crown Court.

The Crown Court will then make further attempts to contact the customer using the information provided via email, post and telephone.

If all letters and forms of communication have been exhausted and payment is still not forthcoming, this is then returned to Newcastle-under-Lyme Borough Council for decision on further action required, options at this point include charging orders and bankruptcy proceedings.

19. Referral of Debt for Legal Action

Except in cases where a value for money judgement suggest it is cost prohibitive, legal action will be taken to recover outstanding debt following completion of Sections 13 and 18 of this policy as appropriate.

The Ministry of Justice requires any business claiming payment of a debt from an individual to follow a Pre-Action Protocol.

Pre-Action Protocols explain the conduct and set out the steps the court would normally expect parties to take before commencing proceedings against individuals.

In line with the protocol, the Debt Recovery Officer will send an Income and Expenditure form to the customer for completion and a covering Letter before Claim. Giving the customer 30 days to complete and return.

For debt not with individuals a Letter for Claim will be sent giving the Debtor a further 14 days to pay before legal action is initiated.

20. Credit Notes

Credit notes should be issued when it has been identified that an invoice was either raised for the incorrect amount or raised in error to ensure that the cost is charged back to the service.

Credit notes must not be used to write off debt.

Credit notes must be authorised in line with the Council's scheme of delegation and must not be authorised by the same officer who raised the invoice.

The credit note must contain a clear reason for the reduction or cancellation of the invoice, along with the original invoice number. The cost centre and VAT code must match the original invoice.

21. Debt Write Off

The Council will take all necessary action to recover in full debts that are due. Debts will be subject to the full recovery, collection and legal procedures as outlined in this policy.

The Council recognises that where a debt is irrecoverable, prompt and regular write off of such debts is good practice.

Debts to be written off fall into two broad categories, firstly those debts that the Council is unable to collect and secondly those debts that are deemed uneconomic to collect.

The Council will seek to minimise the cost of write offs to the local tax payers by taking all necessary and appropriate recovery action to recover what is due. All debts will be subject to the full collection, recovery and legal procedures and considerations as outlined in this Debt Recovery Policy.

The following reasons are recognised as valid reasons for the write off of debts, subject to all appropriate action to enforce payment being attempted:

- Uneconomical to pursue – the debt is £40 or less.
- The customer is deceased and has left no estate – proof required.
- The customer is subject to a formal insolvency order (in such cases any accruing debt to be written off will only be up to the date of the order).
- The customer has absconded/gone away and cannot be traced.
- The customer is living outside the jurisdiction of the English Courts and is unlikely to return.
- The aged of the debt precludes recovery, or the debt is statute barred.

In general, recommendation for debts to be written off should be made only where one of the above categories applies. However, it is recognised that it is difficult to anticipate all potential circumstances where write off may be justified, and that on occasion it may be appropriate to write off a debt for other reasons.

The write off of bad debts must be approved in accordance with Financial Regulations which provides the following limits:

Approval Level	Value
Section 151 Officer	Up to £5,000
Section 151 Officer in consultation with relevant Cabinet Member	£5,000 to £10,000
Cabinet	Over £10,000

22. Refunds of Overpayments

Where an overpayment is identified to have been made by a Debtor, provided there is no other outstanding debtors or ongoing goods or services provision to the Debtor; the Debt Recovery Officer will contact the Debtor to arrange a refund of the overpaid amount.

All refunds will be made via a BACS payment to the Debtors account.

23. Exception/deviations from this Policy

The debt recovery process can be suspended in exceptional circumstances which include:

- Issues arising from a local, national or global event e.g. a global pandemic.
- System breakdown causing customer accounts not to be updated.
- Breathing Space legislation.

To suspend the debt recovery process across the whole of the authority for a significant time frame i.e a global pandemic, this would be agreed jointly by Service Directors Team or equivalent.

In the case of system down-time the decision to suspend recovery would come from the Finance Manager.

The Debt Respite Scheme (Breathing Space) gives someone in problem debt the right to legal protections from their creditors.

There are two types of breathing space: a standard breathing space and a mental health crisis breathing space. Where there is a difference between them, we'll refer specifically to either a standard breathing space or a mental health crisis breathing space. Where there is no difference, we will simply refer to a breathing space.

A standard breathing space is available to anyone with problem debt. It gives them legal protections from creditor action for up to 60 days. The protections include pausing most enforcement action and contact from creditors and freezing most interest and charges on their debts.

A mental health crisis breathing space is only available to someone who is receiving mental health crisis treatment and it has some stronger protections. It lasts as long as the person's mental health crisis treatment, plus 30 days (no matter how long the crisis treatment lasts).